

108TH CONGRESS
2D SESSION

S. 2486

AN ACT

To amend title 38, United States Code, to improve and extend housing, education, and other benefits under the laws administered by the Secretary of Veterans Affairs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Veterans Benefits Improvement Act of 2004”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.
 Sec. 2. Reference to title 38, United States Code.

TITLE I—VETERANS EARN AND LEARN ACT

- Sec. 101. Short title.
 Sec. 102. Modification of benefit entitlement charges for certain on-job training programs.
 Sec. 103. Increase in benefit for individuals pursuing apprenticeship or on-job training.
 Sec. 104. Authority for competency-based apprenticeship programs.
 Sec. 105. Ten-year extension of delimiting period for survivors' and dependents' educational assistance for spouses of members who die on active duty.
 Sec. 106. Availability of education benefits for payment for national admissions exams and national exams for credit at institutions of higher education.
 Sec. 107. Requirement for coordination of data among the Departments of Veterans Affairs, Defense, and Labor with respect to on-job training.
 Sec. 108. Pilot program to provide on-job benefits to train Department of Veterans Affairs' claims adjudicators.
 Sec. 109. Collection of payment for educational assistance under Montgomery GI Bill from members of the Selected Reserve called to active duty.
 Sec. 110. Technical and conforming amendments.

TITLE II—EMPLOYMENT MATTERS

Subtitle A—Employment and Reemployment Rights

- Sec. 201. Two-year period of continuation of employer-sponsored health care coverage.
 Sec. 202. Reinstatement of reporting requirements.
 Sec. 203. Requirement for employers to provide notice of rights and duties under USERRA.
 Sec. 204. Demonstration project for referral of USERRA claims against Federal agencies to the Office of Special Counsel.

Subtitle B—Other Matters

- Sec. 211. Report of employment placement, retention, and advancement of recently separated servicemembers.

TITLE III—BENEFITS MATTERS

- Sec. 301. Additional dependency and indemnity compensation for surviving spouses with dependent children.
 Sec. 302. Offset of veterans' disability compensation and dependency and indemnity compensation from awards under radiation exposure compensation program.
 Sec. 303. Exclusion of life insurance proceeds from consideration as income for veterans' pension purposes.

- Sec. 304. Certain service-connected disability benefits authorized for persons disabled by treatment or vocational rehabilitation provided by the Department of Veterans Affairs.
- Sec. 305. Effective date of death pension.
- Sec. 306. Codification of administrative actions relating to presumptions of service connection for veterans exposed to ionizing radiation.
- Sec. 307. Codification of cost-of-living adjustment provided in Public Law 108–47.
- Sec. 308. Cross-reference amendments relating to concurrent payment of retired pay and veterans’ disability compensation.

TITLE IV—HOUSING MATTERS

- Sec. 401. Authority to provide specially adapted housing to certain disabled veterans.
- Sec. 402. Transitional housing amendments.
- Sec. 403. Increase in maximum amount of home loan guaranty for construction and purchase of homes and annual indexing of amount.
- Sec. 404. Extension of authority for guarantee of adjustable rate mortgages.
- Sec. 405. Extension and improvement of authority for guarantee of hybrid adjustable rate mortgages.
- Sec. 406. Termination of collection of loan fees from veterans rated eligible for compensation at pre-discharge rating examinations.
- Sec. 407. Three-year extension of Native American veteran housing loan pilot program.

TITLE V—MATTERS RELATING TO FIDUCIARIES

- Sec. 501. Definition of fiduciary.
- Sec. 502. Inquiry, investigations, and qualification of fiduciaries.
- Sec. 503. Misuse of benefits by fiduciaries.
- Sec. 504. Additional protections for beneficiaries with fiduciaries.
- Sec. 505. Annual report.
- Sec. 506. Annual adjustment in benefits thresholds.
- Sec. 507. Effective dates.

TITLE VI—MEMORIAL AFFAIRS MATTERS

- Sec. 601. Designation of Prisoner of War/Missing in Action National Memorial, Riverside National Cemetery, Riverside, California.
- Sec. 602. Lease of certain National Cemetery Administration property.
- Sec. 603. Exchanges of real property for national cemeteries.

TITLE VII—IMPROVEMENTS TO SERVICEMEMBERS CIVIL RELIEF ACT

- Sec. 701. Clarification of meaning of “judgment” as used in the Act.
- Sec. 702. Requirements relating to waiver of rights under the Act.
- Sec. 703. Right of servicemember plaintiffs to request stay of civil proceedings.
- Sec. 704. Termination of leases.

TITLE VIII—OTHER MATTERS

- Sec. 801. Principal office of United States Court of Appeals for Veterans Claims.
- Sec. 802. Technical amendments relating to the United States Court of Appeals for Veterans Claims.

- Sec. 803. Extension of biennial report of Advisory Committee on Former Prisoners of War.
- Sec. 804. Availability of administrative and judicial redress for certain veterans denied opportunity to compete for Federal employment.
- Sec. 805. Report on servicemembers' and veterans' awareness of benefits and services available under laws administered by Secretary of Veterans Affairs.

1 SEC. 2. REFERENCE TO TITLE 38, UNITED STATES CODE.

2 Except as otherwise expressly provided, whenever in
 3 this Act an amendment or repeal is expressed in terms
 4 of an amendment to, or repeal of, a section or other provi-
 5 sion, the reference shall be considered to be made to a
 6 section or other provision of title 38, United States Code.

7 TITLE I—VETERANS EARN AND
8 LEARN ACT

9 SEC. 101. SHORT TITLE.

10 This title may be cited as the “Veterans Earn and
 11 Learn Act of 2004”.

12 SEC. 102. MODIFICATION OF BENEFIT ENTITLEMENT
13 CHARGES FOR CERTAIN ON-JOB TRAINING
14 PROGRAMS.

15 (a) IN GENERAL.—Section 3687 is amended by add-
 16 ing at the end the following new subsection:

17 “(e)(1) For each month that an individual (as defined
 18 in paragraph (3)) is paid a training assistance allowance
 19 under subsection (a), the entitlement of the individual
 20 shall be charged at a percentage rate (rounded to the near-
 21 est percent) that is equal to the ratio of—

1 “(A) the training assistance allowance for the
2 month involved, to

3 “(B) the monthly educational assistance allow-
4 ance otherwise payable for full-time enrollment in an
5 educational institution.”.

6 “(2) For any month in which an individual fails to
7 complete 120 hours of training, the entitlement otherwise
8 chargeable under paragraph (1) shall be reduced in the
9 same proportion as the monthly training assistance allow-
10 ance payable is reduced under subsection (b)(3).

11 “(3) In this section, the term ‘individual’ means—

12 “(A) an eligible veteran who is entitled to
13 monthly educational assistance allowances payable
14 under section 3015(e) of this title, or

15 “(B) an eligible person who is entitled to
16 monthly educational assistance allowances payable
17 under section 3532(a) of this title,
18 as the case may be.”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 subsection (a) shall apply with respect to months begin-
21 ning after September 30, 2005.

1 **SEC. 103. INCREASE IN BENEFIT FOR INDIVIDUALS PUR-**
 2 **SUING APPRENTICESHIP OR ON-JOB TRAIN-**
 3 **ING.**

4 (a) MONTGOMERY GI BILL.—For months beginning
 5 on or after October 1, 2005, and before January 1, 2008,
 6 subsection (c)(1) of section 3032 of title 38, United States
 7 Code, shall be applied as if—

8 (1) the reference to “75 percent” in subpara-
 9 graph (A) were a reference to “85 percent”;

10 (2) the reference to “55 percent” in subpara-
 11 graph (B) were a reference to “65 percent”; and

12 (3) the reference to “35 percent” in subpara-
 13 graph (C) were a reference to “45 percent”.

14 (b) POST-VIETNAM ERA VETERANS’ EDUCATIONAL
 15 ASSISTANCE.—For months beginning on or after October
 16 1, 2005, and before January 1, 2008, subsection (a) of
 17 section 3233 of title 38, United States Code, shall be ap-
 18 plied as if—

19 (1) the reference to “75 percent” in paragraph
 20 (1) were a reference to “85 percent”;

21 (2) the reference to “55 percent” in paragraph
 22 (2) were a reference to “65 percent”; and

23 (3) the reference to “35 percent” in paragraph
 24 (3) were a reference to “45 percent”.

25 (c) SURVIVORS AND DEPENDENTS EDUCATIONAL AS-
 26 SISTANCE.—(1) For months beginning on or after October

1 1, 2005, and before January 1, 2008, subsection (b)(2)
2 of section 3687 of title 38, United States Code, shall be
3 applied as if—

4 (A) the reference to “\$574 for the first six
5 months” were a reference to “\$650 for the first six
6 months”;

7 (B) the reference to “\$429 for the second six
8 months” were a reference to “\$507 for the second
9 six months”; and

10 (C) the reference to “\$285 for the third six
11 months” were a reference to “\$366 for the third six
12 months”.

13 (2) Subsection (d) of such section 3687 shall not
14 apply with respect to the provisions of paragraph (1) for
15 months occurring during fiscal year 2006.

16 (3) For months beginning on or after January 1,
17 2008, the Secretary shall carry out subsection (b)(2) of
18 such section 3687 as if paragraphs (1) and (2) were not
19 enacted into law.

20 (d) SELECTED RESERVE MONTGOMERY GI BILL.—
21 For months beginning on or after October 1, 2005, and
22 before January 1, 2008, Subsection (d)(1) of section
23 16131 of title 10, United States Code, shall be applied
24 as if—

1 (1) the reference to “75 percent” in subpara-
 2 graph (A) were a reference to “85 percent”;

3 (2) the reference to “55 percent” in subpara-
 4 graph (B) were a reference to “65 percent”; and

5 (3) the reference to “35 percent” in subpara-
 6 graph (C) were a reference to “45 percent”.

7 **SEC. 104. AUTHORITY FOR COMPETENCY-BASED APPREN-**
 8 **TICESHIP PROGRAMS.**

9 (a) IN GENERAL.—Section 3672(c) is amended—

10 (1) by striking “(1)” and “(2)” and inserting
 11 “(A)” and “(B)”, respectively;

12 (2) by inserting “(1)” after “(c)”; and

13 (3) by adding at the end the following new
 14 paragraphs:

15 “(2) The period of a program of apprenticeship may
 16 be determined based upon a specific period of time (com-
 17 monly referred to as a ‘time-based program’), based upon
 18 the demonstration of successful mastery of skills (com-
 19 monly referred to as a ‘competency-based program’), or
 20 based upon a combination thereof.

21 “(3)(A) In the case of a competency-based program
 22 of apprenticeship, State approving agencies shall deter-
 23 mine the period for which payment may be made for such
 24 a program under chapters 30 and 35 of this title and
 25 chapter 1606 of title 10. In determining the period of such

1 a program, State approving agencies shall take into con-
 2 sideration the approximate term of the program rec-
 3 ommended in registered apprenticeship program stand-
 4 ards recognized by the Secretary of Labor.

5 “(B) The sponsor of a competency-based program of
 6 apprenticeship shall provide notice to the State approving
 7 agency involved of any such standards that may apply to
 8 the program and the proposed approximate period of
 9 training under the program.

10 “(4) The sponsor of a competency-based program of
 11 apprenticeship shall notify the Secretary upon the success-
 12 ful completion of a program of apprenticeship by an indi-
 13 vidual under chapter 30 or 35 of this title, or chapter 1606
 14 of title 10, as the case may be.”.

15 (b) INCREASED USE OF APPRENTICESHIPS.—Section
 16 3672(d)(1) is amended by adding at the end the following
 17 new sentence: “The Secretary of Labor shall provide as-
 18 sistance and services to the Secretary, and to State ap-
 19 proving agencies, to increase the use of apprenticeships.”.

20 (c) FUNDING FOR DEPARTMENT COMPUTER SYSTEM
 21 MODIFICATIONS.—From amounts appropriated to the De-
 22 partment of Veterans Affairs for fiscal year 2005 for read-
 23 justment benefits, the Secretary of Veterans Affairs shall
 24 use an amount not to exceed \$3,000,000 to modify com-
 25 puter systems and to develop procedures required to carry

1 out the amendments made by subsection (a) and sections
 2 102 and 103.

3 **SEC. 105. TEN-YEAR EXTENSION OF DELIMITING PERIOD**
 4 **FOR SURVIVORS' AND DEPENDENTS' EDU-**
 5 **CATIONAL ASSISTANCE FOR SPOUSES OF**
 6 **MEMBERS WHO DIE ON ACTIVE DUTY.**

7 Section 3512(b)(1) is amended—

8 (1) in subparagraph (A), by striking “in sub-
 9 paragraph (B)” and inserting “in subparagraph (B)
 10 or (C)”; and

11 (2) by adding at the end the following new sub-
 12 paragraph:

13 “(C) Notwithstanding subparagraph (A), an eligible
 14 person referred to in that subparagraph who is made eligi-
 15 ble under section 3501(a)(1)(B) of this title by reason of
 16 the death of a person on active duty may be afforded edu-
 17 cational assistance under this chapter during the 20-year
 18 period beginning on the date (as determined by the Sec-
 19 retary) such person becomes an eligible person within the
 20 meaning of such section.”.

1 **SEC. 106. AVAILABILITY OF EDUCATION BENEFITS FOR**
 2 **PAYMENT FOR NATIONAL ADMISSIONS**
 3 **EXAMS AND NATIONAL EXAMS FOR CREDIT**
 4 **AT INSTITUTIONS OF HIGHER EDUCATION.**

5 (a) COVERED EXAMS.—Sections 3452(b) and
 6 3501(a)(5) are each amended by adding at the end the
 7 following new sentence: “Such term also includes national
 8 tests for admission to institutions of higher learning or
 9 graduate schools (such as the Scholastic Aptitude Test
 10 (SAT), Law School Admission Test (LSAT), Graduate
 11 Record Exam (GRE), and Graduate Management Admis-
 12 sion Test (GMAT)) and national tests providing an oppor-
 13 tunity for course credit at institutions of higher learning
 14 (such as the Advanced Placement (AP) exam and College-
 15 Level Examination Program (CLEP)).”.

16 (b) AMOUNT OF PAYMENT.—

17 (1) CHAPTER 30.—Section 3032 is amended by
 18 adding at the end the following new subsection:

19 “(g)(1) Subject to paragraph (3), the amount of edu-
 20 cational assistance payable under this chapter for a na-
 21 tional test for admission or national test providing an op-
 22 portunity for course credit at institutions of higher learn-
 23 ing described in section 3452(b) of this title is the amount
 24 of the fee charged for the test.

25 “(2) The number of months of entitlement charged
 26 in the case of any individual for a test described in para-

1 graph (1) is equal to the number (including any fraction)
 2 determined by dividing the total amount of educational as-
 3 sistance paid such individual for such test by the full-time
 4 monthly institutional rate of educational assistance, except
 5 for paragraph (1), such individual would otherwise be paid
 6 under subsection (a)(1), (b)(1), (d), or (e)(1) of section
 7 3015 of this title, as the case may be.

8 “(3) In no event shall payment of educational assist-
 9 ance under this subsection for a test described in para-
 10 graph (1) exceed the amount of the individual’s available
 11 entitlement under this chapter.”.

12 (2) CHAPTER 32.—Section 3232 is amended by
 13 adding at the end the following new subsection:

14 “(d)(1) Subject to paragraph (3), the amount of edu-
 15 cational assistance payable under this chapter for a na-
 16 tional test for admission or national test providing an op-
 17 portunity for course credit at institutions of higher learn-
 18 ing described in section 3452(b) of this title is the amount
 19 of the fee charged for the test.

20 “(2) The number of months of entitlement charged
 21 in the case of any individual for a test described in para-
 22 graph (1) is equal to the number (including any fraction)
 23 determined by dividing the total amount of educational as-
 24 sistance paid such individual for such test by the full-time
 25 monthly institutional rate of educational assistance, except

1 for paragraph (1), such individual would otherwise be paid
2 under this chapter.

3 “(3) In no event shall payment of educational assist-
4 ance under this subsection for a test described in para-
5 graph (1) exceed the amount of the individual’s available
6 entitlement under this chapter.”.

7 (3) CHAPTER 35.—Section 3532 is amended by
8 adding at the end the following new subsection:

9 “(g)(1) Subject to paragraph (3), the amount of edu-
10 cational assistance payable under this chapter for a na-
11 tional test for admission or national test providing an op-
12 portunity for course credit at institutions of higher learn-
13 ing described in section 3501(a)(5) of this title is the
14 amount of the fee charged for the test.

15 “(2) The number of months of entitlement charged
16 in the case of any individual for a test described in para-
17 graph (1) is equal to the number (including any fraction)
18 determined by dividing the total amount of educational as-
19 sistance paid such individual for such test by the full-time
20 monthly institutional rate of educational assistance, except
21 for paragraph (1), such individual would otherwise be paid
22 under this chapter.

23 “(3) In no event shall payment of educational assist-
24 ance under this subsection for a test described in para-

1 graph (1) exceed the amount of the individual's available
2 entitlement under this chapter.”.

3 **SEC. 107. REQUIREMENT FOR COORDINATION OF DATA**
4 **AMONG THE DEPARTMENTS OF VETERANS**
5 **AFFAIRS, DEFENSE, AND LABOR WITH RE-**
6 **SPECT TO ON-JOB TRAINING.**

7 Section 3694 is amended—

8 (1) by striking “In carrying out” and inserting
9 “(a) IN GENERAL.—In carrying out”; and

10 (2) by adding at the end the following new sub-
11 section:

12 “(b) COORDINATION OF INFORMATION AMONG THE
13 DEPARTMENTS OF VETERANS AFFAIRS, DEFENSE, AND
14 LABOR WITH RESPECT TO ON-JOB TRAINING.—At the
15 time of a servicemember's discharge or release from active
16 duty service, the Secretary of Defense shall furnish to the
17 Secretary such pertinent information concerning each reg-
18 istered apprenticeship pursued by the servicemember dur-
19 ing the period of active duty service of the servicemember.
20 The Secretary, in conjunction with the Secretary of Labor,
21 shall encourage and assist States and private organiza-
22 tions to give credit to servicemembers for the registered
23 apprenticeship program so pursued in the case of any re-
24 lated apprenticeship program the servicemember may pur-
25 sue as a civilian.”.

1 **SEC. 108. PILOT PROGRAM TO PROVIDE ON-JOB BENEFITS**
2 **TO TRAIN DEPARTMENT OF VETERANS AF-**
3 **FAIRS' CLAIMS ADJUDICATORS.**

4 Section 3677 is amended by adding at the end the
5 following new subsection:

6 “(d)(1) The Secretary may conduct a pilot program
7 under which the Secretary operates a program of training
8 on the job under this section for a period (notwithstanding
9 subsection (c)(2)) of up to three years in duration to train
10 employees of the Department to become qualified adju-
11 dicators of claims for compensation, dependency and in-
12 demnity compensation, and pension.

13 “(2)(A) Not later than three years after the imple-
14 mentation of the pilot project, the Secretary shall submit
15 to Congress an initial report on the pilot project. The re-
16 port shall include an assessment of the usefulness of the
17 program in recruiting and retaining of personnel of the
18 Department as well as an assessment of the value of the
19 program as a training program.

20 “(B) Not later than 18 months after the date on
21 which the initial report under subparagraph (A) is sub-
22 mitted, the Secretary shall submit to Congress a final re-
23 port on the pilot project. The final report shall include
24 recommendations of the Secretary with respect to continu-
25 ation of the pilot project and with respect to expansion

1 of the types of claims for which the extended period of
 2 on the job training is available to train such employees.”.

3 **SEC. 109. COLLECTION OF PAYMENT FOR EDUCATIONAL**
 4 **ASSISTANCE UNDER MONTGOMERY GI BILL**
 5 **FROM MEMBERS OF THE SELECTED RESERVE**
 6 **CALLED TO ACTIVE DUTY.**

7 (a) ACTIVE DUTY PROGRAM.—Section 3011(b) is
 8 amended—

9 (1) by striking “The basic pay” and inserting
 10 “(1) Except as provided in paragraph (2), the basic
 11 pay”;

12 (2) by designating the second sentence as para-
 13 graph (3) and in that paragraph by striking “this
 14 chapter” and inserting “this subsection”; and

15 (3) by inserting after paragraph (1), as so des-
 16 ignated, the following new paragraph:

17 “(2) In the case of an individual covered by para-
 18 graph (1) who is a member of the Selected Reserve, the
 19 Secretary of Defense shall collect from the individual an
 20 amount equal to \$1,200 not later than one year after com-
 21 pletion by the individual of the two years of service on
 22 active duty providing the basis for such entitlement. The
 23 Secretary of Defense may collect such amount through re-
 24 ductions in basic pay in accordance with paragraph (1)

1 or through such other method as the Secretary of Defense
2 considers appropriate.”.

3 (b) SELECTED RESERVE PROGRAM.—Section
4 3012(c) is amended—

5 (1) by striking “The basic pay” and inserting
6 “(1) Except as provided in paragraph (2), the basic
7 pay”;

8 (2) by designating the second sentence as para-
9 graph (3) and in that paragraph by striking “this
10 chapter” and inserting “this subsection”; and

11 (3) by inserting after paragraph (1), as so des-
12 ignated, the following new paragraph:

13 “(2) In the case of an individual covered by para-
14 graph (1) who is a member of the Selected Reserve, the
15 Secretary of Defense shall collect from the individual an
16 amount equal to \$1,200 not later than one year after com-
17 pletion by the individual of the two years of service on
18 active duty providing the basis for such entitlement. The
19 Secretary of Defense may collect such amount through re-
20 ductions in basic pay in accordance with paragraph (1)
21 or through such other method as the Secretary of Defense
22 considers appropriate.”.

23 **SEC. 110. TECHNICAL AND CONFORMING AMENDMENTS.**

24 (a) DEFINITION OF TRAINING ESTABLISHMENT.—
25 Section 3452(e), as amended by section 301 of the Vet-

1 erans Benefits Act of 2003 (Public Law 108–183; 117
 2 Stat. 2658), is amended in paragraph (5) to read as fol-
 3 lows:

4 “(5) The sponsor of a program of apprentice-
 5 ship.”.

6 (b) CLARIFICATION OF APPLICABLE APPRENTICE-
 7 SHIP STANDARDS.—(1) Section 3672(c), as amended by
 8 section 105(a), is amended in subparagraph (A) by insert-
 9 ing “apprenticeship” before “standards”.

10 (2) Section 3672(d)(1) is amended by striking “of
 11 programs of training on the job (including programs of
 12 apprenticeship)” and inserting “of apprenticeship and on
 13 the job training programs”.

14 (c) RECORD-KEEPING REQUIREMENTS FOR QUALI-
 15 FIED PROVIDERS OF ENTREPRENEURSHIP COURSES.—
 16 (1) Section 3675(c) is amended by adding at the end the
 17 following new paragraph:

18 “(4) Notwithstanding paragraph (3), a qualified pro-
 19 vider of entrepreneurship courses shall maintain such
 20 records as the Secretary determines to be necessary to
 21 comply with reporting requirements that apply under sec-
 22 tion 3684(a)(1) of this title with respect to eligible persons
 23 and veterans enrolled in an entrepreneurship course of-
 24 fered by the provider.”.

1 (2) The amendment made by paragraph (1) shall
 2 take effect as if included in the enactment of section
 3 305(a) of the Veterans Benefits Act of 2003 (Public Law
 4 108–183; 117 Stat. 2660).

5 (d) **AUTHORITY TO PAY REPORTING FEE.**—Section
 6 3684(c) is amended by striking “or to any joint appren-
 7 ticeship training committee acting as a training establish-
 8 ment” and inserting “or to the sponsor of a program of
 9 apprenticeship”.

10 **TITLE II—EMPLOYMENT**
 11 **MATTERS**
 12 **Subtitle A—Employment and**
 13 **Reemployment Rights**

14 **SEC. 201. TWO-YEAR PERIOD OF CONTINUATION OF EM-**
 15 **PLOYER-SPONSORED HEALTH CARE COV-**
 16 **ERAGE.**

17 (a) **IMPROVEMENT IN PERIOD OF COVERAGE.**—Sub-
 18 section (a)(1)(A) of section 4317 is amended by striking
 19 “18-month period” and inserting “24-month period”.

20 (b) **EFFECTIVE DATE.**—The amendment made by
 21 subsection (a) shall apply to elections made under section
 22 4317 of title 38, United States Code, on or after the date
 23 of the enactment of this Act.

1 **SEC. 202. REINSTATEMENT OF REPORTING REQUIRE-**
 2 **MENTS.**

3 Section 4332 is amended in the matter preceding
 4 paragraph (1) by striking “no later than February 1,
 5 1996, and annually thereafter through 2000” and insert-
 6 ing “no later than February 1, 2005, and annually there-
 7 after”.

8 **SEC. 203. REQUIREMENT FOR EMPLOYERS TO PROVIDE NO-**
 9 **TICE OF RIGHTS AND DUTIES UNDER**
 10 **USERRA.**

11 (a) NOTICE.—Chapter 43 is amended by adding at
 12 the end the following new section:

13 **“§ 4334. Notice of rights and duties**

14 “(a) REQUIREMENT TO PROVIDE NOTICE.—Each
 15 employer shall provide to persons entitled to rights and
 16 benefits under this chapter a notice of the rights, benefits,
 17 and obligations of such persons and such employers under
 18 this chapter. The requirement for the provision of notice
 19 under this section may be met by the posting of the notice
 20 where employers customarily place notices for employees.

21 “(b) CONTENT OF NOTICE.—The Secretary shall
 22 provide to employers the text of the notice to be provided
 23 under this section.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
 2 at the beginning of such chapter is amended by adding
 3 at the end the following new item:

“4334. Notice of rights and duties.”.

4 (c) IMPLEMENTATION.—(1) Not later than the date
 5 that is 90 days after the date of the enactment of this
 6 Act, the Secretary of Labor shall make available to em-
 7 ployers the notice required under section 4334 of title 38,
 8 United States Code, as added by subsection (a).

9 (2) The amendments made by this section shall apply
 10 to employers under chapter 43 of title 38, United States
 11 Code, on and after the first date referred to in paragraph
 12 (1).

13 **SEC. 204. DEMONSTRATION PROJECT FOR REFERRAL OF**
 14 **USERRA CLAIMS AGAINST FEDERAL AGEN-**
 15 **CIES TO THE OFFICE OF SPECIAL COUNSEL.**

16 (a) ESTABLISHMENT OF PROJECT.—The Secretary
 17 of Labor and the Office of Special Counsel shall carry out
 18 a demonstration project under which certain claims
 19 against Federal executive agencies under the Uniformed
 20 Services Employment and Reemployment Rights Act
 21 under chapter 43 of title 38, United States Code, are re-
 22 ferred to, or otherwise received by, the Office of Special
 23 Counsel for assistance, including investigation and resolu-
 24 tion of the claim as well as enforcement of rights with
 25 respect to the claim.

1 (b) REFERRAL OF ALL PROHIBITED PERSONNEL AC-
2 TION CLAIMS TO THE OFFICE OF SPECIAL COUNSEL.—

3 (1) Under the demonstration project, the Office of Special
4 Counsel shall receive and investigate all claims under the
5 Uniformed Services Employment and Reemployment
6 Rights Act with respect to Federal executive agencies in
7 cases where the Office of Special Counsel has jurisdiction
8 over related claims pursuant to section 1212 of title 5,
9 United States Code.

10 (2) For purposes of paragraph (1), a related claim
11 is a claim involving the same Federal executive agency and
12 the same or similar factual allegations or legal issues as
13 those being pursued under a claim under the Uniformed
14 Services Employment and Reemployment Rights Act.

15 (c) REFERRAL OF OTHER CLAIMS AGAINST FED-
16 ERAL EXECUTIVE AGENCIES.—(1) Under the demonstra-
17 tion project, the Secretary—

18 (A) shall refer to the Office of Special Counsel
19 all claims described in paragraph (2) made during
20 the period of the demonstration project; and

21 (B) may refer any claim described in paragraph
22 (2) filed before the demonstration project that is
23 pending before the Secretary at the beginning of the
24 demonstration project.

1 (2) A claim referred to in paragraph (1) is a claim
 2 under chapter 43 of title 38, United States Code, against
 3 a Federal executive agency by a claimant with a social se-
 4 curity account number with an odd number as its terminal
 5 digit, or, in the case of a claim that does not contain a
 6 social security account number, a case number assigned
 7 to the claim with an odd number as its terminal digit.

8 (d) ADMINISTRATION OF DEMONSTRATION
 9 PROJECT.—(1) The Office of Special Counsel shall admin-
 10 ister the demonstration project. The Secretary shall co-
 11 operate with the Office of Special Counsel in carrying out
 12 the demonstration project.

13 (2) In the case of any claim referred, or otherwise
 14 received by, to the Office of Special Counsel under the
 15 demonstration project, any reference to the “Secretary”
 16 in sections 4321, 4322, and 4326 of title 38, United
 17 States Code, is deemed a reference to the “Office of Spe-
 18 cial Counsel”.

19 (3) In the case of any claim referred to, or otherwise
 20 received by, the Office of Special Counsel under the dem-
 21 onstration project, the Office of Special Counsel shall re-
 22 tain administrative jurisdiction over the claim.

23 (e) PERIOD OF PROJECT.—The demonstration
 24 project shall be carried out during the period beginning

1 on the date that is 60 days after the date of the enactment
2 of this Act, and ending on September 30, 2007.

3 (f) EVALUATIONS AND REPORT.—(1) The Comp-
4 troller General of the United States shall conduct periodic
5 evaluations of the demonstration project under this sec-
6 tion.

7 (2) Not later than April 1, 2007, the Comptroller
8 General shall submit to Congress a report on the evalua-
9 tions conducted under paragraph (1). The report shall in-
10 clude the following information and recommendations:

11 (A) A description of the operation and results
12 of the demonstration program, including—

13 (i) the number of claims described in sub-
14 section (c) referred to, or otherwise received by,
15 the Office of Special Counsel, and the number
16 of such claims referred to the Secretary of
17 Labor; and

18 (ii) for each Federal executive agency, the
19 number of claims resolved, the type of correc-
20 tive action obtained, the period of time for final
21 resolution of the claim, and the results ob-
22 tained.

23 (B) An assessment of whether referral to the
24 office of special counsel of claims under the dem-
25 onstration project—

1 (i) improved services to servicemembers
2 and veterans; or

3 (ii) significantly reduced or eliminated du-
4 plication of effort and unintended delays in re-
5 solving meritorious claims of those
6 servicemembers and veterans.

7 (C) An assessment of the feasibility and advis-
8 ability of referring all claims under chapter 43 of
9 title 38, United States Code, against Federal execu-
10 tive agencies to the Office of Special Counsel for in-
11 vestigation and resolution.

12 (D) Such other recommendations for adminis-
13 trative action or legislation as the Comptroller Gen-
14 eral determines appropriate.

15 (g) DEFINITIONS.—In this section:

16 (1) The term “Office of Special Counsel”
17 means the Office of Special Counsel established by
18 section 1211 of title 5, United States Code.

19 (2) The term “Secretary” means the Secretary
20 of Labor.

21 (3) The term “Federal executive agency” has
22 the meaning given that term in section 4303(5) of
23 title 38, United States Code.

Subtitle B—Other Matters

SEC. 211. REPORT OF EMPLOYMENT PLACEMENT, RETENTION, AND ADVANCEMENT OF RECENTLY SEPARATED SERVICEMEMBERS.

(a) CONTRACT FOR REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall enter into a contract with a qualified entity to conduct a study of and prepare a report on the employment histories of recently separated servicemembers.

(b) CONTENT OF REPORT.—(1) The study conducted pursuant to subsection (a) shall consist of an analysis of employment-related data that have been collected with respect to recently separated servicemembers.

(2) In conducting the study, the qualified entity shall—

(A) determine whether the employment obtained by recently separated servicemembers is commensurate with training and education of those servicemembers;

(B) determine whether recently separated servicemembers received educational assistance or training and rehabilitation under programs administered by the Secretary of Veterans Affairs under

1 chapter 30 or 31 of title 38, United States Code, or
2 under chapter 1606 of title 10, United States Code;

3 (C) determine whether transition assistance
4 services provided to recently separated
5 servicemembers assisted those servicemembers in ob-
6 taining civilian employment;

7 (D) analyze trends in hiring of veterans by the
8 private sector; and

9 (E) identify recently separated servicemembers
10 who have reached senior level management positions.

11 (c) USE OF DATA.—In conducting the study under
12 subsection (a), the qualified entity shall review data com-
13 piled and reported by the Bureau of Labor Statistics and
14 shall collect additional data on the employment histories
15 of recently separated servicemembers available from such
16 other sources as the qualified entity determines to be ap-
17 propriate.

18 (d) CONTRACT REQUIREMENTS.—(1) The contract
19 entered into under subsection (a) shall contain such terms
20 and conditions as the Secretary may require. The contract
21 shall require that the report on the study be submitted
22 to the Secretary not later than 2 years after the date on
23 which the contract was entered into.

24 (2) The report required under subsection (a) shall
25 contain the findings and conclusions of the qualified entity

1 on the study and specific recommendations to improve em-
 2 ployment opportunities for veterans recently separated
 3 from service in the Armed Forces, including, if appro-
 4 priate, recommendations for—

5 (A) the establishment of networks of contacts
 6 for employment of such veterans in the private sec-
 7 tor;

8 (B) outreach to private sector leaders on the
 9 merits and sound business practice of hiring such
 10 veterans; and

11 (C) additional methods to facilitate communica-
 12 tion between private sector employers and such vet-
 13 erans who are seeking employment.

14 (e) FUNDING.—Payment by the Secretary for the
 15 contract entered into under subsection (a)—

16 (1) shall be made from the Department of Vet-
 17 erans Affairs appropriations account from which
 18 payments for readjustment benefits are made; and

19 (2) may not exceed \$490,000.

20 (f) DEFINITIONS.—In this section:

21 (1) The term “qualified entity” means an entity
 22 or organization that meets the following require-
 23 ments:

24 (A) Demonstrated experience in conducting
 25 employment surveys of recently separated

1 servicemembers, including Internet-based sur-
2 veys, that meet such quality assurance require-
3 ments as the Secretary determines appropriate.

4 (B) Demonstrated familiarity with veteran
5 employment matters.

6 (C) Demonstrated ability in developing
7 plans to market veterans as employment assets.

8 (D) Demonstrated ability to acquire serv-
9 ices at no cost from other organizations, such
10 as technology, staff services, and advertising
11 services.

12 (E) Demonstrated ability to develop rela-
13 tionships, establish employment networks, and
14 facilitate interaction between private and public
15 sector leaders and veterans.

16 (2) The term “employment history” means,
17 with respect to a recently separated servicemember,
18 training, placement, retention, and advancement in
19 employment of that servicemember.

20 (3) The term “recently separated
21 servicemember” means any veteran (as defined in
22 section 101(2) of title 38, United States Code) dis-
23 charged or released from active duty in the Armed
24 Forces of the United States during the 16-year pe-
25 riod beginning on January 1, 1990.

1 **TITLE III—BENEFITS MATTERS**

2 **SEC. 301. ADDITIONAL DEPENDENCY AND INDEMNITY COM-** 3 **PENSATION FOR SURVIVING SPOUSES WITH** 4 **DEPENDENT CHILDREN.**

5 (a) ADDITIONAL DEPENDENCY AND INDEMNITY
 6 COMPENSATION.—Section 1311 is amended by adding at
 7 the end the following new subsection:

8 “(e)(1) Subject to paragraphs (2) and (3), if there
 9 is a surviving spouse with one or more children below the
 10 age of 18, the dependency and indemnity compensation
 11 paid monthly to the surviving spouse shall be increased
 12 by \$250, regardless of the number of such children.

13 “(2) Dependency and indemnity compensation shall
 14 be increased under this subsection only for months occur-
 15 ring during the two-year period beginning on the date on
 16 which entitlement to dependency and indemnity compensa-
 17 tion commenced.

18 “(3) The increase in dependency and indemnity com-
 19 pensation of a surviving spouse under this subsection shall
 20 cease beginning with the first month commencing after the
 21 month in which all children of the surviving spouse have
 22 attained the age of 18.

23 “(4) Dependency and indemnity compensation under
 24 this subsection is in addition to any other dependency and
 25 indemnity compensation payable under this chapter.”.

1 (b) EFFECTIVE DATE.—Subsection (e) of section
 2 1311 of title 38, United States Code, as added by sub-
 3 section (a), shall take effect with respect to payments for
 4 the first month beginning after the date of the enactment
 5 of this Act.

6 **SEC. 302. OFFSET OF VETERANS' DISABILITY COMPENSA-**
 7 **TION AND DEPENDENCY AND INDEMNITY**
 8 **COMPENSATION FROM AWARDS UNDER RADI-**
 9 **ATION EXPOSURE COMPENSATION PROGRAM.**

10 (a) OFFSET IN LIEU OF FORFEITURE FROM DIS-
 11 ABILITY COMPENSATION.—Subsection (c) of section 1112
 12 is amended by adding at the end the following new para-
 13 graph:

14 “(4) A radiation-exposed veteran who receives a pay-
 15 ment under the provisions of the Radiation Exposure
 16 Compensation Act of 1990 (42 U.S.C. 2210 note) shall
 17 not be deprived, by reason of the receipt of that payment,
 18 of receipt of compensation to which that veteran is entitled
 19 by reason of paragraph (1), but there shall be deducted
 20 from payment of such compensation the amount of the
 21 payment under that Act.”.

22 (b) OFFSET IN LIEU OF FORFEITURE FROM DE-
 23 PENDENCY AND INDEMNITY COMPENSATION.—Section
 24 1310 is amended by adding at the end the following new
 25 paragraph:

1 “(c) A person who receives a payment under the pro-
 2 visions of the Radiation Exposure Compensation Act of
 3 1990 (42 U.S.C. 2210 note) shall not be deprived, by rea-
 4 son of the receipt of that payment, of receipt of depend-
 5 ency and indemnity compensation to which that person is
 6 otherwise entitled, but there shall be deducted from pay-
 7 ment of such dependency and indemnity compensation the
 8 amount of the payment under that Act.”.

9 (c) EFFECTIVE DATE.—Paragraph (4) of section
 10 1112(c) of title 38, United States Code, as added by sub-
 11 section (a), shall take effect with respect to compensation
 12 payments for months beginning after March 26, 2002.
 13 Subsection (c) of section 1310 of such title, as added by
 14 subsection (b), shall take effect with respect to dependency
 15 and indemnity compensation payments for months begin-
 16 ning after March 26, 2002.

17 **SEC. 303. EXCLUSION OF LIFE INSURANCE PROCEEDS**
 18 **FROM CONSIDERATION AS INCOME FOR VET-**
 19 **ERANS’ PENSION PURPOSES.**

20 Section 1503(a) is amended—

- 21 (1) by striking “and” at the end of paragraph
 22 (9);
 23 (2) by striking the period at the end of the
 24 paragraph (10) and inserting “; and”; and

1 (3) by adding at the end the following new
2 paragraph:

3 “(11) lump-sum proceeds of any life insurance
4 policy on a veteran, for purposes of pension under
5 subchapter III of this chapter.”.

6 **SEC. 304. CERTAIN SERVICE-CONNECTED DISABILITY BEN-**
7 **EFITS AUTHORIZED FOR PERSONS DISABLED**
8 **BY TREATMENT OR VOCATIONAL REHABILI-**
9 **TATION PROVIDED BY THE DEPARTMENT OF**
10 **VETERANS AFFAIRS.**

11 (a) **AUTHORIZED BENEFITS.**—Section 1151 is
12 amended by adding at the end the following new sub-
13 section:

14 “(c) A qualifying additional disability under this sec-
15 tion shall be treated in the same manner as if it were a
16 service-connected disability for purposes of the following
17 provisions of this title:

18 “(1) Chapter 21, relating to specially adapted
19 housing.

20 “(2) Chapter 39, relating to automobiles and
21 adaptive equipment.”.

22 (b) **EFFECTIVE DATE.**—Subsection (c) of section
23 1151 of title 38, United States Code, as added by sub-
24 section (a), shall apply with respect to eligibility for bene-

1 fits and services provided by the Secretary of Veterans Af-
 2 fairs on or after the date of the enactment of this Act.

3 (c) ADMINISTRATION OF OFFSET PROVISION.—Sub-
 4 section (b) of section 1151 is amended—

5 (1) by inserting “(1)” after “(b)”;

6 (2) by inserting “(except as otherwise provided
 7 in paragraph (2))” after “service-connected, then”;
 8 and

9 (3) by adding at the end the following new
 10 paragraph:

11 “(2) In the case of a judgment, settlement, or com-
 12 promise covered by paragraph (1) that becomes final on
 13 or after the date of the enactment of this paragraph and
 14 that includes an amount that is specifically designated for
 15 a purpose for which benefits are provided under chapter
 16 21 or 39 of this title (hereinafter in this paragraph re-
 17 ferred to as the ‘offset amount’), if such judgment, settle-
 18 ment, or compromise becomes final before the date of the
 19 award of benefits under chapter 21 or 39 for the purpose
 20 for which the offset amount was specifically designated—

21 “(A) the amount of such award shall be re-
 22 duced by the offset amount; and

23 “(B) if the offset amount is greater than the
 24 amount of such award, the excess amount received
 25 pursuant to the judgment, settlement or com-

1 promise, shall be offset against benefits otherwise
2 payable under this chapter.”.

3 **SEC. 305. EFFECTIVE DATE OF DEATH PENSION.**

4 Section 5110(d) is amended—

5 (1) by striking “(1)”;

6 (2) by striking “death compensation or depend-
7 ency and indemnity compensation” and inserting
8 “death compensation, dependency and indemnity
9 compensation, or death pension”; and

10 (3) by striking paragraph (2).

11 **SEC. 306. CODIFICATION OF ADMINISTRATIVE ACTIONS RE-**
12 **LATING TO PRESUMPTIONS OF SERVICE CON-**
13 **NECTION FOR VETERANS EXPOSED TO ION-**
14 **IZING RADIATION.**

15 (a) COVERED DISEASES.—Subsection (c)(2) of sec-
16 tion 1112 is amended by adding at the end the following
17 new subparagraphs:

18 “(Q) Cancer of the bone.

19 “(R) Cancer of the brain.

20 “(S) Cancer of the colon.

21 “(T) Cancer of the lung.

22 “(U) Cancer of the ovary.”.

23 (b) COVERED RADIATION-RISK ACTIVITIES.—Sub-
24 section (c)(3)(B) of such section is amended by adding
25 at the end the following new clause:

1 “(iv) Service in a capacity which, if per-
 2 formed as an employee of the Department of
 3 Energy, would qualify the individual for inclu-
 4 sion as a member of the Special Exposure Co-
 5 hort under section 3621(14) of the Energy Em-
 6 ployees Occupational Illness Compensation Pro-
 7 gram Act of 2000 (42 U.S.C. 7384l(14)).”.

8 (c) EFFECTIVE DATE.—The amendments made by
 9 this section shall take effect as of March 26, 2002.

10 **SEC. 307. CODIFICATION OF COST-OF-LIVING ADJUSTMENT**

11 **PROVIDED IN PUBLIC LAW 108–47.**

12 (a) VETERANS’ DISABILITY COMPENSATION.—Sec-
 13 tion 1114 is amended—

14 (1) by striking “\$104” in subsection (a) and in-
 15 serting “\$106”;

16 (2) by striking “\$201” in subsection (b) and in-
 17 serting “\$205”;

18 (3) by striking “\$310” in subsection (c) and in-
 19 serting “\$316”;

20 (4) by striking “\$445” in subsection (d) and in-
 21 serting “\$454”;

22 (5) by striking “\$633” in subsection (e) and in-
 23 serting “\$646”;

24 (6) by striking “\$801” in subsection (f) and in-
 25 serting “\$817”;

1 (7) by striking “\$1,008” in subsection (g) and
2 inserting “\$1,029”;

3 (8) by striking “\$1,171” in subsection (h) and
4 inserting “\$1,195”;

5 (9) by striking “\$1,317” in subsection (i) and
6 inserting “\$1,344”;

7 (10) by striking “\$2,193” in subsection (j) and
8 inserting “\$2,239”;

9 (11) in subsection (k)—

10 (A) by striking “\$81” both places it ap-
11 pears and inserting “\$82”; and

12 (B) by striking “\$2,728” and “\$3,827”
13 and inserting “\$2,785” and “\$3,907”, respec-
14 tively;

15 (12) by striking “\$2,728” in subsection (l) and
16 inserting “\$2,785”;

17 (13) by striking “\$3,010” in subsection (m)
18 and inserting “\$3,073”;

19 (14) by striking “\$3,425” in subsection (n) and
20 inserting “\$3,496”;

21 (15) by striking “\$3,827” each place it appears
22 in subsections (o) and (p) and inserting “\$3,907”;

23 (16) by striking “\$1,643” and “\$2,446” in sub-
24 section (r) and inserting “\$1,677” and “\$2,497”,
25 respectively; and

1 (17) by striking “\$2,455” in subsection (s) and
 2 inserting “\$2,506”.

3 (b) ADDITIONAL COMPENSATION FOR DEPEND-
 4 ENTS.—Section 1115(1) is amended—

5 (1) by striking “\$125” in subparagraph (A)
 6 and inserting “\$127”;

7 (2) by striking “\$215” and “\$64” in subpara-
 8 graph (B) and inserting “\$219” and “\$65”, respec-
 9 tively;

10 (3) by striking “\$85” and “\$64” in subpara-
 11 graph (C) and inserting “\$86” and “\$65”, respec-
 12 tively;

13 (4) by striking “\$101” in subparagraph (D)
 14 and inserting “\$103”;

15 (5) by striking “\$237” in subparagraph (E)
 16 and inserting “\$241”; and

17 (6) by striking “\$198” in subparagraph (F)
 18 and inserting “\$202”.

19 (c) CLOTHING ALLOWANCE FOR CERTAIN DISABLED
 20 VETERANS.—Section 1162 is amended by striking “\$588”
 21 and inserting “\$600”.

22 (d) DEPENDENCY AND INDEMNITY COMPENSATION
 23 FOR SURVIVING SPOUSES.—(1) Section 1311(a) is
 24 amended—

1 (A) by striking “\$948” in paragraph (1) and
 2 inserting “\$967”; and

3 (B) by striking “\$204” in paragraph (2) and
 4 inserting “\$208”.

5 (2) The table in section 1311(a)(3) is amended to
 6 read as follows:

Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	\$967	W-4	\$1,157
E-2	\$967	O-1	\$1,022
E-3	\$967	O-2	\$1,056
E-4	\$967	O-3	\$1,130
E-5	\$967	O-4	\$1,195
E-6	\$967	O-5	\$1,316
E-7	\$1,000	O-6	\$1,483
E-8	\$1,056	O-7	\$1,602
E-9	\$1,102 ¹	O-8	\$1,758
W-1	\$1,022	O-9	\$1,881
W-2	\$1,063	O-10	\$2,063 ²
W-3	\$1,094

¹ If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be \$1,189.

² If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be \$2,213.

7 (3) Section 1311(b) is amended by striking
 8 “\$237” and inserting “\$241”.

9 (4) Section 1311(c) is amended by striking
 10 “\$237” and inserting “\$241”.

11 (5) Section 1311(d) is amended by striking
 12 “\$113” and inserting “\$115”.

13 (e) DEPENDENCY AND INDEMNITY COMPENSATION
 14 FOR CHILDREN.—(1) Section 1313(a) is amended—

15 (A) by striking “\$402” in paragraph (1) and
 16 inserting “\$410”;

1 (B) by striking “\$578” in paragraph (2) and
 2 inserting “\$590”;

3 (C) by striking “\$752” in paragraph (3) and
 4 inserting “\$767”; and

5 (D) by striking “\$752” and “\$145” in para-
 6 graph (4) and inserting “\$767” and “\$148”, respec-
 7 tively.

8 (2) Section 1314 is amended—

9 (A) by striking “\$237” in subsection (a) and
 10 inserting “\$241”;

11 (B) by striking “\$402” in subsection (b) and
 12 inserting “\$410”; and

13 (C) by striking “\$201” in subsection (c) and in-
 14 serting “\$205”.

15 **SEC. 308. CROSS-REFERENCE AMENDMENTS RELATING TO**
 16 **CONCURRENT PAYMENT OF RETIRED PAY**
 17 **AND VETERANS’ DISABILITY COMPENSATION.**

18 (a) PROHIBITION AGAINST DUPLICATION OF BENE-
 19 FITS.—Section 5304(a)(1) is amended by inserting “as
 20 provided in section 1414 of title 10 or” after “Except”.

21 (b) WAIVER OF RETIRED PAY.—Section 5305 is
 22 amended by striking “Any” in the first sentence and in-
 23 serting “Except as provided in section 1414 of title 10,
 24 any”.

1 **TITLE IV—HOUSING MATTERS**

2 **SEC. 401. AUTHORITY TO PROVIDE SPECIALLY ADAPTED** 3 **HOUSING TO CERTAIN DISABLED VETERANS.**

4 The text of section 2101 is amended to read as fol-
 5 lows:

6 “(a) ACQUISITION OF HOUSING WITH SPECIAL FEA-
 7 TURES.—(1) Subject to paragraph (3), the Secretary may
 8 assist a disabled veteran described in paragraph (2) in ac-
 9 quiring a suitable housing unit with special fixtures or
 10 movable facilities made necessary by the nature of the vet-
 11 eran’s disability, and necessary land therefor.

12 “(2) A veteran is described in this paragraph if the
 13 veteran is entitled to compensation under chapter 11 of
 14 this title for a permanent and total service-connected dis-
 15 ability that meets any of the following criteria:

16 “(A) The disability is due to the loss, or loss of
 17 use, of both lower extremities such as to preclude lo-
 18 comotion without the aid of braces, crutches, canes,
 19 or a wheelchair.

20 “(B) The disability is due to—

21 “(i) blindness in both eyes, having only
 22 light perception, plus

23 “(ii) loss or loss of use of one lower ex-
 24 tremity.

1 “(C) The disability is due to the loss or loss of
2 use of one lower extremity together with—

3 “(i) residuals of organic disease or injury;
4 or

5 “(ii) the loss or loss of use of one upper
6 extremity,

7 which so affect the functions of balance or propul-
8 sion as to preclude locomotion without the aid of
9 braces, crutches, canes, or a wheelchair.

10 “(D) The disability is due to the loss, or loss
11 of use, of both upper extremities such as to preclude
12 use of the arms at or above the elbows.

13 “(3) The regulations prescribed under subsection (c)
14 shall require that assistance under paragraph (1) may be
15 provided to a veteran only if the Secretary finds that—

16 “(A) it is medically feasible for the veteran to
17 reside in the proposed housing unit and in the pro-
18 posed locality;

19 “(B) the proposed housing unit bears a proper
20 relation to the veteran’s present and anticipated in-
21 come and expenses; and

22 “(C) the nature and condition of the proposed
23 housing unit are such as to be suitable to the vet-
24 eran’s needs for dwelling purposes.

1 “(b) ADAPTATIONS TO RESIDENCE OF VETERAN.—

2 (1) Subject to paragraph (3), the Secretary shall assist
3 any disabled veteran described in paragraph (2) (other
4 than a veteran who is eligible for assistance under sub-
5 section (a))—

6 “(A) in acquiring such adaptations to such vet-
7 eran’s residence as are determined by the Secretary
8 to be reasonably necessary because of such dis-
9 ability; or

10 “(B) in acquiring a residence already adapted
11 with special features determined by the Secretary to
12 be reasonably necessary for the veteran because of
13 such disability.

14 “(2) A veteran is described in this paragraph if the
15 veteran is entitled to compensation under chapter 11 of
16 this title for a permanent and total service-connected dis-
17 ability that meets either of the following criteria:

18 “(A) The disability is due to blindness in both
19 eyes with 5/200 visual acuity or less.

20 “(B) The disability includes the anatomical loss
21 or loss of use of both hands.

22 “(3) Assistance under paragraph (1) may be provided
23 only to a veteran who the Secretary determines—

1 “(A) is residing in and reasonably intends to
2 continue residing in a residence owned by such vet-
3 eran or by a member of such veteran’s family; or

4 “(B) if the veteran’s residence is to be con-
5 structed or purchased, will be residing in and rea-
6 sonably intends to continue residing in a residence
7 owned by such veteran or by a member of such vet-
8 eran’s family.

9 “(c) REGULATIONS.—Assistance under this section
10 shall be provided in accordance with such regulations as
11 the Secretary may prescribe.”.

12 **SEC. 402. TRANSITIONAL HOUSING AMENDMENTS.**

13 (a) USE OF VETERAN VOLUNTEERS.—Section 2051
14 is amended by adding at the end the following new sub-
15 section:

16 “(g) Notwithstanding any other provision of law, a
17 multifamily transitional housing project that is funded by
18 a loan guaranteed under this subchapter may accept un-
19 compensated voluntary services performed by any eligible
20 entity (as that term is defined in section 2011(d) of this
21 title) in connection with the construction, alteration, or re-
22 pair of such project.”.

23 (b) AUTHORIZATION FOR COMMERCIALY-LEASED
24 SPACE.—Section 2052(c)(1) is amended by striking “serv-

1 ices” and inserting “services, other commercial activi-
 2 ties,”.

3 **SEC. 403. INCREASE IN MAXIMUM AMOUNT OF HOME LOAN**
 4 **GUARANTY FOR CONSTRUCTION AND PUR-**
 5 **CHASE OF HOMES AND ANNUAL INDEXING OF**
 6 **AMOUNT.**

7 (a) MAXIMUM LOAN GUARANTY BASED ON 100 PER-
 8 CENT OF FREDDIE MAC CONFORMING LOAN RATE.—Sec-
 9 tion 3703(a)(1) is amended by striking “\$60,000” each
 10 place it appears in subparagraphs (A)(i)(IV) and (B) and
 11 inserting “the maximum guaranty amount (as defined in
 12 subparagraph (C))”.

13 (b) DEFINITION.—Such section is further amended
 14 by adding at the end the following new subparagraph:

15 “(C) In this paragraph, the term ‘maximum guaranty
 16 amount’ means the dollar amount that is equal to 25 per-
 17 cent of the Freddie Mac conforming loan limit limitation
 18 determined under section 305(a)(2) of the Federal Home
 19 Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2))
 20 for a single-family residence, as adjusted for the year in-
 21 volved.”.

1 **SEC. 404. EXTENSION OF AUTHORITY FOR GUARANTEE OF**
 2 **ADJUSTABLE RATE MORTGAGES.**

3 Section 3707(a) is amended by striking “during fiscal
 4 years 1993, 1994, and 1995” and inserting “during fiscal
 5 years 1993 through 2008”.

6 **SEC. 405. EXTENSION AND IMPROVEMENT OF AUTHORITY**
 7 **FOR GUARANTEE OF HYBRID ADJUSTABLE**
 8 **RATE MORTGAGES.**

9 (a) EXTENSION OF AUTHORITY.—Subsection (a) of
 10 section 3707A is amended by striking “during fiscal years
 11 2004 and 2005” and inserting “during fiscal years 2004
 12 through 2008”.

13 (b) MODIFICATION OF INTEREST RATE ADJUSTMENT
 14 REQUIREMENTS.—Subsection (c) of such section is
 15 amended—

16 (1) by redesignating paragraph (4) as para-
 17 graph (5);

18 (2) by striking paragraph (3) and inserting the
 19 following new paragraphs:

20 “(3) in the case of the initial contract interest
 21 rate adjustment—

22 “(A) if the initial contract interest rate re-
 23 mained fixed for less than 5 years, be limited
 24 to a maximum increase or decrease of 1 per-
 25 centage point; or

1 “(B) if the initial contract interest rate re-
 2 mained fixed for 5 years or more, be limited to
 3 a maximum increase or decrease of such per-
 4 centage point or points as the Secretary may
 5 prescribe;

6 “(4) in the case of any single annual interest
 7 rate adjustment after the initial contract interest
 8 rate adjustment, be limited to a maximum increase
 9 or decrease of 1 percentage point; and”;

10 (3) in paragraph (5), as so redesignated, by
 11 striking “5 percentage points” and all that follows
 12 and inserting “such number of percentage points as
 13 the Secretary shall prescribe for purposes of this
 14 section.”.

15 (c) NO EFFECT ON GUARANTEE OF LOANS UNDER
 16 HYBRID ADJUSTABLE RATE MORTGAGE GUARANTEE
 17 DEMONSTRATION PROJECT.—The amendments made by
 18 this section shall not be construed to affect the force or
 19 validity of any guarantee of a loan made by the Secretary
 20 of Veterans Affairs under the demonstration project for
 21 the guarantee of hybrid adjustable rate mortgages under
 22 section 3707A of title 38, United States Code, as in effect
 23 on the day before the date of the enactment of this Act.

1 **SEC. 406. TERMINATION OF COLLECTION OF LOAN FEES**
 2 **FROM VETERANS RATED ELIGIBLE FOR COM-**
 3 **PENSATION AT PRE-DISCHARGE RATING EX-**
 4 **AMINATIONS.**

5 Section 3729(c) is amended—

6 (1) by inserting “(1)” before “A fee”; and

7 (2) by adding at the end the following new
 8 paragraph:

9 “(2) A veteran who is rated eligible to receive com-
 10 pensation as a result of a pre-discharge disability examina-
 11 tion and rating shall be treated as receiving compensation
 12 for purposes of this subsection as of the date on which
 13 the veteran is rated eligible to receive compensation as a
 14 result of the pre-discharge disability examination and rat-
 15 ing without regard to whether an effective date of the
 16 award of compensation is established as of that date.”.

17 **SEC. 407. THREE-YEAR EXTENSION OF NATIVE AMERICAN**
 18 **VETERAN HOUSING LOAN PILOT PROGRAM.**

19 Section 3761(c) is amended by striking “December
 20 31, 2005” and inserting “December 31, 2008”.

21 **TITLE V—MATTERS RELATING**
 22 **TO FIDUCIARIES**

23 **SEC. 501. DEFINITION OF FIDUCIARY.**

24 (a) IN GENERAL.—(1) Chapter 55 is amended by
 25 adding at the end the following new section:

1 **“§ 5506. Definition of ‘fiduciary’**

2 “For purposes of this chapter and chapter 61 of this
3 title, the term ‘fiduciary’ means—

4 “(1) a person who is a guardian, curator, con-
5 servator, committee, or person legally vested with
6 the responsibility or care of a claimant (or a claim-
7 ant’s estate) or of a beneficiary (or a beneficiary’s
8 estate); or

9 “(2) any other person having been appointed in
10 a representative capacity to receive money paid
11 under any of the laws administered by the Secretary
12 for the use and benefit of a minor, incompetent, or
13 other beneficiary.”.

14 (2) The table of sections at the beginning of such
15 chapter is amended by adding at the end the following
16 new item:

“5506. Definition of ‘fiduciary’.”.

17 (b) CONFORMING AMENDMENTS TO SECTION
18 5502.—Section 5502 is amended—

19 (1) in subsection (a)—

20 (A) in paragraph (1), by striking “other
21 person” and inserting “other fiduciary”; and

22 (B) in the second sentence of paragraph
23 (2), by inserting “for benefits under this title”
24 after “in connection with rendering fiduciary
25 services”;

1 (2) in subsection (b), by striking “guardian, cu-
 2 rator, conservator, or other person” each place it ap-
 3 pears and inserting “fiduciary”; and

4 (3) in subsection (d), by striking “guardian, cu-
 5 rator, or conservator” and inserting “fiduciary”.

6 (c) CONFORMING AMENDMENT TO SECTION 6101.—
 7 Section 6101(a) is amended by striking “guardian, cura-
 8 tor,” and all that follows through “beneficiary,” and in-
 9 serting “fiduciary (as defined in section 5506 of this title)
 10 for the benefit of a minor, incompetent, or other bene-
 11 ficiary under laws administered by the Secretary,”.

12 **SEC. 502. INQUIRY, INVESTIGATIONS, AND QUALIFICATION**
 13 **OF FIDUCIARIES.**

14 (a) IN GENERAL.—Chapter 55, as amended by sec-
 15 tion 501(a)(1), is further amended by adding at the end
 16 the following new section:

17 **“§ 5507. Inquiry, investigations, and qualification of**
 18 **fiduciaries**

19 “(a) Any certification of a person for payment of ben-
 20 efits of a beneficiary to that person as such beneficiary’s
 21 fiduciary under section 5502 of this title shall be made
 22 on the basis of—

23 “(1) an inquiry or investigation by the Sec-
 24 retary of the fitness of that person to serve as fidu-

1 ciary for that beneficiary, such inquiry or
2 investigation—

3 “(A) to be conducted in advance of such
4 certification;

5 “(B) to the extent practicable, to include a
6 face-to-face interview with such person; and

7 “(C) to the extent practicable, to include a
8 copy of a credit report for such person issued
9 within one year of the date of the proposed ap-
10 pointment;

11 “(2) adequate evidence that certification of that
12 person as fiduciary for that beneficiary is in the in-
13 terest of such beneficiary (as determined by the Sec-
14 retary under regulations); and

15 “(3) the furnishing of any bond that may be re-
16 quired by the Secretary.

17 “(b) As part of any inquiry or investigation of any
18 person under subsection (a), the Secretary shall request
19 information concerning whether that person has been con-
20 victed of any offense under Federal or State law which
21 resulted in imprisonment for more than one year. If that
22 person has been convicted of such an offense, the Sec-
23 retary may certify the person as a fiduciary only if the
24 Secretary finds that the person is an appropriate person

1 to act as fiduciary for the beneficiary concerned under the
2 circumstances.

3 “(c)(1) In the case of a proposed fiduciary described
4 in paragraph (2), the Secretary, in conducting an inquiry
5 or investigation under subsection (a)(1), may carry out
6 such inquiry or investigation on an expedited basis that
7 may include waiver of any specific requirement relating
8 to such inquiry or investigation, including the otherwise
9 applicable provisions of subparagraphs (A), (B), and (C)
10 of such subsection. Any such inquiry or investigation car-
11 ried out on such an expedited basis shall be carried out
12 under regulations prescribed for purposes of this section.

13 “(2) Paragraph (1) applies with respect to a proposed
14 fiduciary who is—

15 “(A) the parent (natural, adopted, or step-
16 parent) of a beneficiary who is a minor;

17 “(B) the spouse or parent of an incompetent
18 beneficiary;

19 “(C) a person who has been appointed a fidu-
20 ciary of the beneficiary by a court of competent ju-
21 risdiction; or

22 “(D) being appointed to manage an estate
23 where the annual amount of veterans benefits to be
24 managed by the proposed fiduciary does not exceed

1 \$3,600, as adjusted pursuant to section 5312 of this
2 title.

3 “(d) TEMPORARY FIDUCIARIES.—When in the opin-
4 ion of the Secretary, a temporary fiduciary is needed in
5 order to protect the assets of the beneficiary while a deter-
6 mination of incompetency is being made or appealed or
7 a fiduciary is appealing a determination of misuse, the
8 Secretary may appoint one or more temporary fiduciaries
9 for a period not to exceed 120 days. If a final decision
10 has not been made within 120 days, the Secretary may
11 not continue the appointment of the fiduciary without ob-
12 taining a court order for appointment of a guardian, con-
13 servator, or other fiduciary under the authority provided
14 in section 5502(b) of this title.”.

15 (b) CLERICAL AMENDMENT.—The table of sections
16 at the beginning of such chapter is amended by adding
17 after the item added by section 501(a)(2) the following
18 new item:

“5507. Inquiry, investigations, and qualification of fiduciaries.”.

19 **SEC. 503. MISUSE OF BENEFITS BY FIDUCIARIES.**

20 (a) PROTECTION OF VETERANS BENEFITS WHEN
21 ADMINISTERED BY FIDUCIARIES.—(1) Chapter 61 is
22 amended by adding at the end the following new sections:

23 **“§ 6106. Misuse of benefits by fiduciaries**

24 “(a) FEE FORFEITURE IN CASE OF BENEFIT MIS-
25 USE BY FIDUCIARIES.—A fiduciary may not collect a fee

1 from a beneficiary for any month with respect to which
 2 the Secretary or a court of competent jurisdiction has de-
 3 termined that the fiduciary misused all or part of the indi-
 4 vidual's benefit, and any amount so collected by the fidu-
 5 ciary as a fee for such month shall be treated as a misused
 6 part of the individual's benefit.

7 “(b) MISUSE OF BENEFITS DEFINED.—For purposes
 8 of this chapter, misuse of benefits by a fiduciary occurs
 9 in any case in which the fiduciary receives payment, under
 10 any of laws administered by the Secretary, for the use and
 11 benefit of a beneficiary and uses such payment, or any
 12 part thereof, for a use other than for the use and benefit
 13 of such beneficiary or that beneficiary's dependents. Re-
 14 tention by a fiduciary of an amount of a benefit payment
 15 as a fiduciary fee or commission, or as attorney's fees (in-
 16 cluding expenses) and court costs, if authorized by the
 17 Secretary or a court of competent jurisdiction, shall be
 18 considered to be for the use or benefit of such beneficiary.

19 “(c) REGULATIONS.—The Secretary may prescribe
 20 by regulation the meaning of the term ‘use and benefit’
 21 for purposes of this section.

22 **“§ 6107. Reissuance of benefits**

23 “(a) NEGLIGENT FAILURE BY SECRETARY.—(1) In
 24 any case in which the negligent failure of the Secretary
 25 to investigate or monitor a fiduciary results in misuse of

1 benefits by the fiduciary, the Secretary shall pay to the
 2 beneficiary or the beneficiary's successor fiduciary an
 3 amount equal to the amount of benefits that were so mis-
 4 used.

5 “(2) There shall be considered to have been a neg-
 6 ligent failure by the Secretary to investigate and monitor
 7 a fiduciary in the following cases:

8 “(A) A case in which the Secretary failed to re-
 9 view a fiduciary's accounting within 60 days of the
 10 date on which that accounting is scheduled for re-
 11 view.

12 “(B) A case in which the Secretary was notified
 13 of allegations of misuse, but failed to act within 60
 14 days of the date of such notification to terminate the
 15 fiduciary.

16 “(C) In any other case in which actual neg-
 17 ligence is shown.

18 “(b) REISSUANCE OF MISUSED BENEFITS IN OTHER
 19 CASES.—(1) In any case in which a fiduciary described
 20 in paragraph (2) misuses all or part of an individual's ben-
 21 efit paid to such fiduciary, the Secretary shall pay to the
 22 beneficiary or the beneficiary's successor fiduciary an
 23 amount equal to the amount of such benefit so misused.

24 “(2) Paragraph (1) applies to a fiduciary that—

25 “(A) is not an individual; or

1 “(B) is an individual who, for any month dur-
 2 ing a period when misuse occurs, serves 10 or more
 3 individuals who are beneficiaries under this title.

4 “(3) In any other case in which the Secretary obtains
 5 recoupment from a fiduciary who has misused benefits,
 6 the Secretary shall promptly remit payment of the re-
 7 couped amounts to the beneficiary or the beneficiary’s suc-
 8 cessor fiduciary as the case may be.

9 “(c) LIMITATION ON TOTAL AMOUNT PAID.—The
 10 total of the amounts paid to a beneficiary (or a bene-
 11 ficiary’s successor fiduciary) under this section may not
 12 exceed the total benefit amount misused by the fiduciary
 13 with respect to that beneficiary.

14 “(d) RECOUPMENT OF AMOUNTS REISSUED.—In any
 15 case in which the Secretary reissues a benefit payment (in
 16 whole or in part) under subsection (a) or (b), the Sec-
 17 retary shall make a good faith effort to obtain recoupment
 18 from the fiduciary to whom the payment was originally
 19 made.”.

20 (b) CLERICAL AMENDMENT.—The table of sections
 21 at the beginning of such chapter is amended by adding
 22 at the end the following new items:

“6106. Misuse of benefits by fiduciaries.

“6107. Reissuance of benefits.”.

1 **SEC. 504. ADDITIONAL PROTECTIONS FOR BENEFICIARIES**
 2 **WITH FIDUCIARIES.**

3 (a) ONSITE REVIEWS AND REQUIRED ACCOUNT-
 4 INGS.—(1) Chapter 55, as amended by section 502(a), is
 5 further amended by adding at the end the following new
 6 sections:

7 **“§ 5508. Periodic onsite reviews of institutional fidu-**
 8 **ciaries**

9 “In addition to such other reviews of fiduciaries as
 10 the Secretary may otherwise conduct, the Secretary shall
 11 provide for the periodic onsite review of any person or
 12 agency located in the United States that receives the bene-
 13 fits payable under laws administered by the Secretary to
 14 another individual pursuant to the appointment of such
 15 person or agency as a fiduciary under section 5502(a)(1)
 16 of this title in any case in which the fiduciary is serving
 17 in that capacity with respect to more than 20 beneficiaries
 18 and the total annual amount of such benefits exceeds
 19 \$50,000, as adjusted pursuant to section 5312 of this
 20 title.

21 **“§ 5509. Authority to require fiduciary to receive pay-**
 22 **ments at regional offices of the Depart-**
 23 **ment when failing to provide required ac-**
 24 **counting**

25 “(a) REQUIRED REPORTS AND ACCOUNTINGS.—The
 26 Secretary may require a fiduciary to file a report or ac-

1 counting pursuant to regulations prescribed by the Sec-
2 retary.

3 “(b) ACTIONS UPON FAILURE TO FILE.—In any case
4 in which a fiduciary fails to submit a report or accounting
5 required by the Secretary under subsection (a), the Sec-
6 retary may, after furnishing notice to such fiduciary and
7 the beneficiary entitled to such payment of benefits, re-
8 quire that such fiduciary appear in person at a regional
9 office of the Department serving the area in which the
10 beneficiary resides in order to receive such payments.”.

11 (2) The table of sections at the beginning of such
12 chapter is amended by adding after the item added by sec-
13 tion 502(b) the following new items:

“5508. Periodic onsite reviews of institutional fiduciaries.

“5509. Authority to require fiduciary to receive payments at regional offices of
the Department when failing to provide required accounting.”.

14 (b) JUDICIAL ORDERS OF RESTITUTION.—(1) Chap-
15 ter 61, as amended by section 503(a), is further amended
16 by adding at the end the following new section:

17 **“§ 6108. Authority for judicial orders of restitution**

18 “(a) Any Federal court, when sentencing a defendant
19 convicted of an offense arising from the misuse of benefits
20 under this title, may order, in addition to or in lieu of
21 any other penalty authorized by law, that the defendant
22 make restitution to the Department.

23 “(b) Sections 3612, 3663, and 3664 of title 18 shall
24 apply with respect to the issuance and enforcement of or-

1 ders of restitution under subsection (a). In so applying
 2 those sections, the Department shall be considered the vic-
 3 tim.

4 “(c) If the court does not order restitution, or orders
 5 only partial restitution, under subsection (a), the court
 6 shall state on the record the reasons therefor.

7 “(d) Amounts received in connection with misuse by
 8 a fiduciary of funds paid as benefits under laws adminis-
 9 tered by the Secretary shall be paid to the individual
 10 whose benefits were misused. If the Secretary has pre-
 11 viously reissued the misused benefits, the amounts shall
 12 be treated in the same manner as overpayments recouped
 13 by the Secretary and shall be deposited to the credit of
 14 the applicable revolving fund, trust fund, or appropria-
 15 tion.”.

16 (2) The table of sections at the beginning of such
 17 chapter is amended by adding after the item added by sec-
 18 tion 503(b) the following new item:

“6108. Authority for judicial orders of restitution.”.

19 **SEC. 505. ANNUAL REPORT.**

20 (a) IN GENERAL.—Chapter 55, as amended by sec-
 21 tion 504(a)(1), is further amended by adding at the end
 22 the following new section:

23 **“§ 5510. Annual report**

24 “The Secretary shall include in the Annual Benefits
 25 Report of the Veterans Benefits Administration or the

1 Secretary's Annual Performance and Accountability Re-
2 port information concerning fiduciaries who have been ap-
3 pointed to receive payments for beneficiaries of the De-
4 partment. As part of such information, the Secretary shall
5 separately set forth the following: —

6 “(1) The number of beneficiaries in each cat-
7 egory (veteran, surviving spouse, child, adult dis-
8 abled child, or parent).

9 “(2) The types of benefit being paid (compensa-
10 tion, pension, dependency and indemnity compensa-
11 tion, death pension or benefits payable to a disabled
12 child under chapter 18 of this title).

13 “(3) The total annual amounts and average an-
14 nual amounts of benefits paid to fiduciaries for each
15 category and type of benefit.

16 “(4) The number of fiduciaries who are the
17 spouse, parent, legal custodian, court-appointed fidu-
18 ciary, institutional fiduciary, custodian in fact, and
19 supervised direct payees.

20 “(5) The number of cases in which the fidu-
21 ciary was changed by the Secretary because of a
22 finding that benefits had been misused.

23 “(6) How such cases of misuse of benefits were
24 addressed by the Secretary.

1 “(7) The final disposition of such cases of mis-
 2 use of benefits, including the number and dollar
 3 amount of any benefits reissued to beneficiaries.

4 “(8) The number of fiduciary cases referred to
 5 the Office of the Inspector General and the nature
 6 of the actions taken by the Inspector General.

7 “(9) The total amount of money recovered by
 8 the government in cases arising from the misuse of
 9 benefits by a fiduciary.

10 “(10) Such other information as the Secretary
 11 considers appropriate.”.

12 (b) CLERICAL AMENDMENT.—The table of sections
 13 at the beginning of such chapter is amended by adding
 14 after the items added by the amendment made by section
 15 504(a)(2) the following new item:

“5510. Annual report.”.

16 **SEC. 506. ANNUAL ADJUSTMENT IN BENEFITS THRESH-**
 17 **OLDS.**

18 Section 5312(b)(1) is amended by inserting “and the
 19 annual benefit amount limitations under sections
 20 5507(c)(2)(D) and 5508 of this title,” after “(d)(3) of
 21 such section,”.

22 **SEC. 507. EFFECTIVE DATES.**

23 (a) IN GENERAL.—Except as otherwise provided, this
 24 title and the amendments made by this title shall take ef-

1 fect on the first day of the seventh month beginning after
2 the date of the enactment of this Act.

3 (b) SPECIAL RULES.—(1) Section 5510 of title 38,
4 United States Code, as added by section 505(a), shall take
5 effect on the date of the enactment of this Act.

6 (2) Sections 6106 and 6107 of title 38, United States
7 Code, as added by section 503(a), shall apply with respect
8 to any determinations by the Secretary of Veterans Affairs
9 made after the date of the enactment of this Act of misuse
10 of funds by a fiduciary.

11 **TITLE VI—MEMORIAL AFFAIRS** 12 **MATTERS**

13 **SEC. 601. DESIGNATION OF PRISONER OF WAR/MISSING IN** 14 **ACTION NATIONAL MEMORIAL, RIVERSIDE** 15 **NATIONAL CEMETERY, RIVERSIDE, CALI-** 16 **FORNIA.**

17 (a) DESIGNATION.—The memorial to former pris-
18 oners of war and members of the Armed Forces listed as
19 missing in action that is under construction at Riverside
20 National Cemetery in Riverside, California, is hereby des-
21 ignated: “Prisoner of War/Missing in Action National Me-
22 morial”.

23 (b) EFFECT OF DESIGNATION.—Such national me-
24 morial designated by subsection (a) is not a unit of the
25 National Park System, and the designation of the national

1 memorial shall not be construed to require Federal funds
 2 to be expended for any purpose related to the national me-
 3 morial.

4 **SEC. 602. LEASE OF CERTAIN NATIONAL CEMETERY ADMIN-**
 5 **ISTRATION PROPERTY.**

6 (a) IN GENERAL.—Chapter 24 is amended by adding
 7 at the end the following new section:

8 **“§ 2412. Lease of land and buildings**

9 “(a) LEASE AUTHORIZED.—The Secretary may lease
 10 any undeveloped land and unused or underutilized build-
 11 ings, or parts or parcels thereof, belonging to the United
 12 States and part of the National Cemetery Administration.

13 “(b) TERM.—The term of a lease under subsection
 14 (a) may not exceed 10 years.

15 “(c) LEASE TO PUBLIC OR NONPROFIT ORGANIZA-
 16 TIONS.—(1) A lease under subsection (a) to any public
 17 or nonprofit organization may be made without regard to
 18 the provisions of section 3709 of the Revised Statutes (41
 19 U.S.C. 5).

20 “(2) Notwithstanding section 1302 of title 40 or any
 21 other provision of law, a lease under subsection (a) to any
 22 public or nonprofit organization may provide for the main-
 23 tenance, protection, or restoration of the leased property
 24 by the lessee, as a part or all of the consideration for the
 25 lease.

1 “(d) NOTICE.—Before entering into a lease under
2 subsection (a), the Secretary shall give appropriate public
3 notice of the intention of the Secretary to enter into the
4 lease in a newspaper of general circulation in the commu-
5 nity in which the lands or buildings concerned are located.

6 “(e) NATIONAL CEMETERY ADMINISTRATION FA-
7 CILITIES OPERATION FUND.—(1) There is established on
8 the book of the Treasury an account to be known as the
9 ‘National Cemetery Administration Facilities Operation
10 Fund’ (in this section referred to as the ‘Fund’).

11 “(2) The Fund shall consist of the following:

12 “(A) Proceeds from the lease of land or build-
13 ings under this section.

14 “(B) Proceeds of agricultural licenses of lands
15 of the National Cemetery Administration.

16 “(C) Any other amounts appropriated to or oth-
17 erwise authorized for deposit in the Fund by law.

18 “(3) Amounts in the Fund shall be available to cover
19 costs incurred by the National Cemetery Administration
20 in the operation and maintenance of property of the Ad-
21 ministration.

22 “(4) Amounts in the Fund shall remain available
23 until expended.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
 2 at the beginning of such chapter is amended by adding
 3 at the end the following new item:

“2412. Lease of land and buildings.”.

4 **SEC. 603. EXCHANGES OF REAL PROPERTY FOR NATIONAL**
 5 **CEMETERIES.**

6 Section 2406 is amended by inserting “exchange,”
 7 after “agencies,”.

8 **TITLE VII—IMPROVEMENTS TO**
 9 **SERVICEMEMBERS CIVIL RE-**
 10 **LIEF ACT**

11 **SEC. 701. CLARIFICATION OF MEANING OF “JUDGMENT” AS**
 12 **USED IN THE ACT.**

13 Section 101 of the Servicemembers Civil Relief Act
 14 (50 U.S.C. App. 511) is amended by adding at the end
 15 the following new paragraph:

16 “(9) JUDGMENT.—The term ‘judgment’ means
 17 any judgment, decree, order, or ruling, final or tem-
 18 porary.”.

19 **SEC. 702. REQUIREMENTS RELATING TO WAIVER OF**
 20 **RIGHTS UNDER THE ACT.**

21 Section 107 of the Servicemembers Civil Relief Act
 22 (50 U.S.C. App. 517) is amended—

23 (1) in subsection (a), by inserting after the first
 24 sentence the following new sentence: “Any such
 25 waiver that applies to an action listed in subsection

1 (b) of this section is effective only if it is in writing
 2 and is executed as an instrument separate from the
 3 obligation or liability to which it applies.”;

4 (2) by redesignating subsection (c) as sub-
 5 section (d); and

6 (3) by inserting after subsection (b) the fol-
 7 lowing new subsection (c):

8 “(c) **PROMINENT DISPLAY OF CERTAIN CONTRACT**
 9 **RIGHTS WAIVERS.**—Any waiver in writing of a right or
 10 protection provided by this Act that applies to a contract,
 11 lease, or similar legal instrument must be in at least 12
 12 point type.”.

13 **SEC. 703. RIGHT OF SERVICEMEMBER PLAINTIFFS TO RE-**
 14 **QUEST STAY OF CIVIL PROCEEDINGS.**

15 Section 202(a) of the Servicemembers Civil Relief Act
 16 (50 U.S.C. App. 522(a)) is amended by inserting “plain-
 17 tiff or” before “defendant”.

18 **SEC. 704. TERMINATION OF LEASES.**

19 (a) **JOINT LEASES.**—Subsection (a) of section 305 of
 20 the Servicemembers Civil Relief Act (50 U.S.C. App. 535)
 21 is amended to read as follows:

22 “(a) **TERMINATION BY LESSEE.**—

23 “(1) **IN GENERAL.**—The lessee on a lease de-
 24 scribed in subsection (b) may, at the lessee’s option,
 25 terminate the lease at any time after—

1 “(A) the lessee’s entry into military serv-
2 ice; or

3 “(B) the date of the lessee’s military or-
4 ders described in paragraph (1)(B) or (2)(B) of
5 subsection (b), as the case may be.

6 “(2) JOINT LEASES.—A lessee’s termination of
7 a lease pursuant to this subsection shall terminate
8 any obligation a dependent of the lessee may have
9 under the lease.”.

10 (b) MOTOR VEHICLES LEASES.—

11 (1) APPLICABILITY TO PCS ORDERS FROM
12 STATES OUTSIDE CONUS.—Subparagraph (B) of
13 subsection (b)(2) of such section is amended by
14 striking “military orders for” and all that follows
15 through “or to deploy” and inserting “military
16 orders—

17 “(i) for a change of permanent
18 station—

19 “(I) from a location in the conti-
20 nental United States to a location out-
21 side the continental United States; or

22 “(II) from a location in a State
23 outside the continental United States
24 to any location outside that State; or
25 “(ii) to deploy”.

1 (2) DEFINITIONS.—Such section is further
 2 amended by adding at the end the following new
 3 subsection:

4 “(i) DEFINITIONS.—

5 “(1) MILITARY ORDERS.—The term ‘military
 6 orders’, with respect to a servicemember, means offi-
 7 cial military orders, or any notification, certification,
 8 or verification from the servicemember’s com-
 9 manding officer, with respect to the servicemember’s
 10 current or future military duty status.

11 “(2) CONUS.—The term ‘continental United
 12 States’ means the 48 contiguous States and the Dis-
 13 trict of Columbia.”.

14 (c) COVERAGE OF INDIVIDUAL DEPLOYMENTS.—
 15 Subsection (b) of such section is further amended in para-
 16 graph (1)(B) and paragraph (2)(B)(ii) (as designated by
 17 subsection (b) of this section) by inserting “, or as an indi-
 18 vidual in support of a military operation,” after “deploy
 19 with a military unit”.

20 **TITLE VIII—OTHER MATTERS**

21 **SEC. 801. PRINCIPAL OFFICE OF UNITED STATES COURT OF** 22 **APPEALS FOR VETERANS CLAIMS.**

23 Section 7255 is amended by striking “District of Co-
 24 lumbia” and inserting “Washington, D.C., metropolitan
 25 area”.

1 **SEC. 802. TECHNICAL AMENDMENTS RELATING TO THE**
 2 **UNITED STATES COURT OF APPEALS FOR**
 3 **VETERANS CLAIMS.**

4 (a) RESTORATION OF PRIOR PROVISION RELATING
 5 TO CHIEF JUDGE.—Section 7253(d)(1) is amended by in-
 6 serting after “(1)” the following: “The chief judge of the
 7 Court is the head of the Court.”.

8 (b) CAPITALIZATION AMENDMENTS.—Section
 9 7253(d)(4)(A) is amended by striking “court” in clauses
 10 (i) and (ii) and inserting “Court”.

11 (c) DATE OF ENACTMENT REFERENCE.—Section
 12 7253(h)(4) is amended by striking “the date of the enact-
 13 ment of this subsection” and inserting “December 27,
 14 2001,”.

15 **SEC. 803. EXTENSION OF BIENNIAL REPORT OF ADVISORY**
 16 **COMMITTEE ON FORMER PRISONERS OF**
 17 **WAR.**

18 Section 541(c)(1) is amended by striking “2003” and
 19 inserting “2009”.

20 **SEC. 804. AVAILABILITY OF ADMINISTRATIVE AND JUDI-**
 21 **CIAL REDRESS FOR CERTAIN VETERANS DE-**
 22 **NIED OPPORTUNITY TO COMPETE FOR FED-**
 23 **ERAL EMPLOYMENT.**

24 (a) ADMINISTRATIVE REDRESS.—Section
 25 3330a(a)(1) of title 5, United States Code, is amended—
 26 (1) by inserting “(A)” after “(1)”; and

1 (2) by adding at the end the following new sub-
2 paragraph:

3 “(B) A veteran described in section 3304(f)(1) who
4 alleges that an agency has violated such section with re-
5 spect to such veteran may file a complaint with the Sec-
6 retary of Labor.”.

7 (b) JUDICIAL REDRESS.—Section 3330b(a) is
8 amended by inserting “, or a veteran described by section
9 3330a(a)(1)(B) with respect to a violation described by
10 such section,” after “a preference eligible”.

11 **SEC. 805. REPORT ON SERVICEMEMBERS’ AND VETERANS’**
12 **AWARENESS OF BENEFITS AND SERVICES**
13 **AVAILABLE UNDER LAWS ADMINISTERED BY**
14 **SECRETARY OF VETERANS AFFAIRS.**

15 (a) REPORT.—Not later than one year after the date
16 of the enactment of this Act, the Secretary of Veterans
17 Affairs shall submit to Congress a report setting forth a
18 detailed description of (1) the outreach efforts of the De-
19 partment of Veterans Affairs, as of the date of the enact-
20 ment of this Act, to inform members of the uniformed
21 services and veterans (and their family members and sur-
22 vivors) of the benefits and services to which they are enti-
23 tled under laws administered by the Secretary, and (2)
24 the current level of awareness of those members and vet-

1 erans (and family members and survivors) of those bene-
2 fits and services.

3 (b) MATTERS TO BE INCLUDED.—The report under
4 subsection (a) shall include the following:

5 (1) A description of the outreach activities con-
6 ducted by the Secretary in each of the three Admin-
7 istrations of the Department of Veterans Affairs and
8 outreach activities conducted by other entities within
9 the Department.

10 (2) The results of a national survey, conducted
11 as described in subsection (c), to ascertain
12 servicemembers' and veterans' level of awareness of
13 benefits and services referred to in subsection (a)
14 and whether servicemembers and veterans know how
15 to access those benefits and services.

16 (3) Recommendations by the Secretary on how
17 outreach and awareness activities to veterans and
18 servicemembers may be improved.

19 (c) CONDUCT OF SURVEY.—The survey conducted for
20 purposes of subsection (b)(2) shall be conducted in a man-
21 ner to include a statistically valid sample of persons in
22 each of the following groups:

23 (1) World War II veterans.

24 (2) Korean conflict era veterans.

25 (3) Vietnam era veterans.

1 (4) Persian Gulf era veterans.

2 (5) Active duty servicemembers.

3 (6) National Guard and Reserve members acti-
4 vated under title 10, United States Code.

5 (7) Family members and survivors.

Passed the Senate October 8, 2004.

Attest:

Secretary.

108TH CONGRESS
2D SESSION

S. 2486

AN ACT

To amend title 38, United States Code, to improve and extend housing, education, and other benefits under the laws administered by the Secretary of Veterans Affairs, and for other purposes.